Remarks

Applicants request reconsideration of the claims of this application as amended above and in view of the following remarks that controvert the Examiner's *prima facie* case of obviousness.

Claim 22 was objected to because it included the term "and" in line 7. Applicant has removed the term "and" in line 7 of claim 22.

Claims 1-5 and 8-11 stand rejected under 35 U.S.C. § 103(a) as being unpatentable in view of Hoffert et al, in view of Davis et al. Claims.6-7 and 12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hoffert and Davis and further in view of official notice. Claim 13 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Hoffert and Davis and further in view of Gustman. Claims 14-18 and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hoffert in view of Davis and Eberman et al. Claims 19-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hoffert, Davis, Eberman and Mark Davis '048 patent. Claims 22 and 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gustman in view of Davis et al.

Claim 1 has been amended to further specify the nature of the network-based system claimed by applicants. The network-based system in addition to providing sampling of distributed multimedia content also facilitates the exchange of multimedia content between a plurality of multimedia content vendors and a plurality of multimedia content purchasers. The multimedia sampling computer is configured to host purchasing or licensing transactions relating to selected multimedia content that is desired to be purchased. The amendments to the claim focus on the same concept that was previously the subject of claim 9. Claim 9 stands rejected in view of Hoffert and Davis. Hoffert is relied upon by the Examiner for its teaching that distributed multimedia source computers, the multimedia warehouse and multimedia sampling computers are configured to host, preview, purchase or license multimedia. The Examiner cites to column 9 lines 54-67 that actually states as follows:

> 3.5 Metering and Billing for Storage and Bandwidth Utilization above a Specified Threshold.
>
> The user(s) of such a system may begin to store large numbers of documents that are manually or automatically uploaded as single files, or batch uploaded as a group of files (and with associated metadata). If the storage of such media files and documents is provided as a commercial service to a corporation, it is economical and prudent to charge the corporate customer for storage and bandwidth utilization that takes place above a specified threshold. By metering the storage and bandwidth utilization on a regular basis, usage can be tracked, and usage exceeding specific limits can be triggered to result in billing the client for the additional system utilization.

The Examiner also relies upon Hoffert at column 10, lines 10-16 which actually states:

> 5.0 Previews
>
> The described embodiments are concerned with parsing media content files and building low-bandwidth previews of higher bandwidth data files. This allows rapid previewing of media data files, without the need to download, or if the media file is loaded, without the need to display, the entire file.

As will be readily appreciated the Hoffert patent does not disclose or suggest hosting purchasing or licensing transactions relating to selected multimedia content. The Hoffert patent discusses charging for media storage and bandwidth utilization but is completely silent as to commercial transactions such as purchasing or licensing transactions that are necessary to obtain rights to multimedia content that is selected by a user. This is a substantial advantage of the present invention. It is not disclosed or suggested by any of the prior art references. All of the prior art relied upon by the Examiner deals with transactions between end users and the centralized service provider. In contrast, the present invention deals with transactions between third party creators of content such as song writers and composers who wish to sell their media content to producers such as movie producers, advertising agencies and the like. These transactions facilitate the exchange of multimedia content between a plurality of content vendors and a plurality of multimedia content purchasers. Secondary reference,

Davis, relates to software and a user interface for easy combination of multimedia files in synchronization. It does not deal with centralized database or marketing of content to purchasers. The Hoffert and Davis patents alone or in combination do not disclose or suggest the system claimed in amended claim 1. The Examiner is respectfully requested to withdraw his rejection of claim 1 and claims 2-8 and 10-13 that depend from claim 1.

In regard to claim 7, this claim was rejected based upon Davis and Hoffert. Based on the fact that the tempo calculator is disclosed in the Davis patent. The tempo calculator in that patent deals with the extraction of a tempo from an existing media content file. Claim 7 as amended, deals with an interface for a user specifying a desired tempo by tapping a peripheral device. This human-computer user interface is not disclosed in the Davis patent or in any of the other prior art.

Claim 14 has been amended to specify the concept of presenting a multimedia consumer's request for a custom multimedia file to a multimedia provider that was previously the focus of dependent claim 19, now canceled. Prior claim 19 depended from claim 14 and was rejected based upon a combination of Hoffert, Davis, Eberman and in view of Mark Davis '048. The '048 patent is relied upon by the Examiner because of its teaching of sending a ". . . request for a custom multimedia file to a multimedia provider (column 6, lines 57-63; column 7, lines 9-12, 30-37 and Figures 8-9)." In the context of the '048 patent the term "custom video" refers to an existing video file that is then streamed over a wireless network from a hub. In that context, the term "custom" simply refers to the fact that the video file is selected by the user and available in real time on demand. In contrast, the present invention uses the phrase custom multimedia file to refer to a file that is created in response to a user request. That user request specifies properties of the desired new, yet to be created media content file. The Examiner is respectfully requested to withdraw his rejection of claim 14 and claims 15-18 and 20-21 that depend from claim 14.

Claim 20, as previously submitted was dependent upon claim 19. Claim 19 been incorporated into claim 14 and claim 20 has been amended to refer to claim 14. Claim 20 is patentable for the same reasons argued in support of amended claim 14.

Claim 21 further distinguishes the method, especially in view of the Hoffert reference relied upon by the Examiner. In the method of claim 21 further comprises the step of presenting a multimedia consumer's request for revision to a multimedia provider. The Hoffert patent deals with a method for updating files in centralized database that have been edited on their source computers. It discloses methods for monitoring media files on distributed source computers to ensure that the centralized copy or reference is not stale. The claimed invention is different in that in claim 21 we are talking about a user specifying custom revision requests for multimedia files. This facilitates creative collaboration by multimedia vendors and consumers. This feature is not disclosed in any of the prior art alone or in combination.

Claim 22 focuses on a computer readable storage medium containing executable code for enabling the claimed storage medium to receive user input selecting one or more multimedia files for purchase or license. This was formerly the subject of claim 23 which is canceled. This feature distinguishes claim 22 from the prior art relied upon by the Examiner. None of the prior art cited including Gustman deals with the licensing or purchase of individual media content files. The Examiner is respectfully requested to withdraw his rejection of claim 22 and claim 24 that depends from claim 22.

Claim 25 has been added to claim the method of specifying a desired tempo for multimedia content by tapping an input device. This concept was previously argued in reference to claim 7 and is not disclosed or suggested by any of the references relied upon by the Examiner.

No new fee is required for the submission of this amendment in that the number of claims being submitted exceeds the number of dependent and independent claims remaining in the application after this amendment.

Applicants have amended the claims of this application to overcome the objection to claim 22 and the rejection of all of the claims based upon obviousness. Applicant has attempted to place the claims of this application in condition for allowance. The Examiner is invited to telephone applicants' attorney if it would advance the prosecution of this case. The Examiner is respectfully requested to pass this case to issue.

A check in the amount of $225.00 is enclosed to cover the Petition fee. Please charge any additional fees or credit any overpayments as a result of the filing of this paper to our Deposit Account No. 02-3978.

Respectfully submitted,

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